

AMENDED IN SENATE APRIL 18, 1996
AMENDED IN SENATE SEPTEMBER 11, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 682

Introduced by Assembly Member Tucker

February 21, 1995

An act to amend Section 25503.28 of, *and to add Section 25503.33 to*, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 682, as amended, Tucker. Alcoholic beverages: *tied-house restrictions*.

(1) Existing provisions of the Alcoholic Beverage Control Act known as “tied-house” restrictions generally prohibit an on-sale alcoholic beverage licensee from having an ownership interest in an alcoholic beverage manufacturer. ~~Existing law allows—~~as As an exception to those provisions, *existing law allows* a holder of no more than 6 on-sale licenses or the holder of no more than one on-sale license and one off-sale general license in a county of a certain size to own a beer manufacturer of limited production.

This bill would instead make that exception available to the holder of one or more on-sale licenses under certain specified conditions.

(2) *Existing “tied-house” restrictions also generally prohibit a beer manufacturer or winegrower from having an*

ownership interest in an on-sale alcoholic beverage license, with certain limited exceptions.

This bill would permit a beer manufacturer or winegrower to provide sponsorship funds for or on behalf of a retail on-sale licensee who is the owner and manager of certain outdoor fairs, if certain conditions are met, as specified.

This bill would make it a misdemeanor for any beer manufacturer or winegrower, through coercion or other illegal means, to induce a beer or wine wholesaler to provide those sponsorship funds, thereby imposing a state-mandated local program by creating a new crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25503.28 of the Business and
 2 Professions Code, as amended by Section 9 of Chapter
 3 1028 of the Statutes of 1994, is amended to read:
 4 25503.28. (a) Notwithstanding any other provision of
 5 this division, the holder of one or more on-sale licenses, or
 6 any officer, director, employee, or agent of that licensee,
 7 or the holder of no more than one on-sale license and one
 8 off-sale general license in a county of the 39th class only,
 9 or any officer, director, employee, or agent of that
 10 licensee, may hold no more than one beer manufacturer's
 11 license pursuant to paragraph (a) of subdivision (1) of
 12 Section 23320, and may serve on the board of directors
 13 and as an officer or employee of a licensed beer
 14 manufacturer subject to the following restrictions:
 15 (1) Beer manufactured under the beer
 16 manufacturer's license shall not be sold or furnished by
 17 the beer manufacturer to any affiliated retail licensees
 18 and shall not be sold or furnished by any affiliated retail

1 licensees, to consumers, except where the beer is sold or
2 furnished to a single affiliated on-sale licensed premises,
3 if any, which is coterminous, contiguous, or adjacent to
4 the licensed beer manufacturer's premises.

5 (2) The number of beer items by brand made under
6 the beer manufacturer's license and offered for sale at the
7 single affiliated coterminous, contiguous, or adjacent
8 on-sale licensed premises shall not exceed 15 percent of
9 the total beer items by brand listed and offered for sale
10 on the licensed premises.

11 (3) At least 50 percent of the total number of beer
12 items by brand listed and offered for sale by the single
13 affiliated coterminous, contiguous, or adjacent on-sale
14 licensee shall be selected from brands which have the
15 largest market share in the state.

16 (4) Beer made under the beer manufacturer's license,
17 if not sold to the single affiliated coterminous, contiguous,
18 or adjacent on-sale licensee, may be sold by the beer
19 manufacturer only to a licensed beer wholesaler.

20 (b) An on-sale licensee specified in subdivision (a)
21 shall purchase no alcoholic beverages for sale in this state
22 other than from a wholesale or winegrower licensee,
23 except for any alcoholic beverages manufactured by the
24 licensed beer manufacturer at a single location
25 coterminous, contiguous, or adjacent to the premises of
26 the on-sale licensee.

27 (c) The Legislature finds that it is necessary and
28 proper to require a separation between manufacturing
29 interests, wholesale interests, and retail interests in the
30 production and distribution of alcoholic beverages in
31 order to prevent suppliers from dominating local markets
32 through vertical integration and to prevent excessive
33 sales of alcoholic beverages produced by overly
34 aggressive marketing techniques. The Legislature
35 further finds that the exception established by this section
36 to the general prohibition against tied interests must be
37 limited to its expressed terms so as not to undermine the
38 general prohibition, and intends that this section be
39 construed accordingly.

1 (d) This section shall remain in effect only until
2 January 1, 1998, and as of that date is repealed.

3 SEC. 2. Section 25503.28 of the Business and
4 Professions Code, as amended by Section 10 of Chapter
5 1028 of the Statutes of 1994, is amended to read:

6 25503.28. (a) Notwithstanding any other provision of
7 this division, the holder of one or more on-sale licenses, or
8 any officer, director, employee, or agent of that licensee,
9 may hold no more than one beer manufacturer's license
10 pursuant to paragraph (a) of subdivision (1) of Section
11 23320, and may serve on the board of directors and as an
12 officer or employee of a licensed beer manufacturer
13 subject to the following restrictions:

14 (1) Beer manufactured under the beer
15 manufacturer's license shall not be sold or furnished by
16 the beer manufacturer to any affiliated retail licensees
17 and shall not be sold or furnished by any of the affiliated
18 retail licensees to consumers, except where the beer is
19 sold or furnished to a single affiliated on-sale licensed
20 premises, if any, which is coterminous, contiguous, or
21 adjacent to the licensed beer manufacturer's premises.

22 (2) The number of beer items by brand made under
23 the beer manufacturer's license and offered for sale at the
24 single affiliated coterminous, contiguous, or adjacent
25 on-sale licensed premises shall not exceed 15 percent of
26 the total beer items by brand listed and offered for sale
27 on the licensed premises.

28 (3) At least 50 percent of the total number of beer
29 items by brand listed and offered for sale by the single
30 affiliated coterminous, contiguous, or adjacent on-sale
31 licensee shall be selected from brands which have the
32 largest market share in the state.

33 (4) Beer made under the beer manufacturer's license,
34 if not sold to the single affiliated coterminous, contiguous,
35 or adjacent on-sale licensee, may be sold by the beer
36 manufacturer only to a licensed beer wholesaler.

37 (b) An on-sale licensee specified in subdivision (a)
38 shall purchase no alcoholic beverages for sale in this state
39 other than from a wholesale or winegrower licensee,
40 except for any alcoholic beverages manufactured by the

1 licensed beer manufacturer at a single location
2 coterminous, contiguous, or adjacent to the premises of
3 the on-sale licensee.

4 (c) The Legislature finds that it is necessary and
5 proper to require a separation between manufacturing
6 interests, wholesale interests, and retail interests in the
7 production and distribution of alcoholic beverages in
8 order to prevent suppliers from dominating local markets
9 through vertical integration and to prevent excessive
10 sales of alcoholic beverages produced by overly
11 aggressive marketing techniques. The Legislature
12 further finds that the exception established by this section
13 to the general prohibition against tied interests must be
14 limited to its expressed terms so as not to undermine the
15 general prohibition, and intends that this section be
16 construed accordingly.

17 (d) This section shall become operative on January 1,
18 1998.

19 *SEC. 3. Section 25503.33 is added to the Business and*
20 *Professions Code, to read:*

21 *25503.33. (a) Notwithstanding any other provision of*
22 *this division, a beer manufacturer or winegrower may*
23 *provide sponsorship funds for or on behalf of a retail*
24 *on-sale licensee provided each of the following conditions*
25 *are met:*

26 *(1) The on-sale licensee is the owner and manager of*
27 *outdoor fairs in northern and southern California which*
28 *have a history based theme and operate for 6 to 12*
29 *weekends in either or both venues and, excluding*
30 *rain-outs, have an average daily attendance exceeding*
31 *10,000 persons.*

32 *(2) The sponsorship funds will be provided and used*
33 *only in connection with specific programs or activities at*
34 *the outdoor fairs described in paragraph (1).*

35 *(3) The sponsorship funds are to sponsor the following*
36 *programs or activities only:*

- 37 *(i) Signing program for the deaf.*
38 *(ii) Docent program for the disabled.*
39 *(iii) Public school history program.*

1 (iv) Scholarships and honoraria for the students of the
2 College of Performing Arts.

3 (v) Contests involving sports, cooking, brewing,
4 costumes, and other skills related to arts and sciences.

5 (vi) Equestrian exhibits and tournaments.

6 (4) The on-sale licensee serves other brands of beer or
7 wine in addition to the brand manufactured by the beer
8 manufacturer or produced by the winegrower providing
9 sponsorship funds.

10 (b) Any provision of sponsorship funds pursuant to
11 subdivision (a) shall be conducted pursuant to a written
12 contract entered into by the beer manufacturer or
13 winegrower and the on-sale licensee.

14 (c) Any beer manufacturer or winegrower who,
15 through coercion or other illegal means, induces a beer
16 or wine wholesaler to fulfill those contractual obligations
17 entered into pursuant to subdivision (a), is guilty of a
18 misdemeanor and is punishable by imprisonment in a
19 county jail not exceeding six months, or by a fine in an
20 amount equal to the entire value of the sponsorship funds
21 involved in the contract, plus ten thousand dollars
22 (\$10,000), or by both that imprisonment and fine. This
23 person shall also be subject to license revocation pursuant
24 to Section 24200.

25 (d) The Legislature finds that it is necessary and
26 proper to require a separation between manufacturing
27 interests, wholesale interests, and retail interests in the
28 production and distribution of alcoholic beverages in
29 order to prevent suppliers from dominating local markets
30 through vertical integration and to prevent excessive
31 sales of alcoholic beverages produced by overly
32 aggressive marketing techniques. The Legislature
33 further finds that the exception established by this section
34 to the general prohibition against tied interests must be
35 limited to its express terms so as not to undermine the
36 general prohibition, and intends that this section be
37 construed accordingly.

38 SEC. 4. No reimbursement is required by this act
39 pursuant to Section 6 of Article XIII B of the California
40 Constitution because the only costs that may be incurred

1 *by a local agency or school district will be incurred*
2 *because this act creates a new crime or infraction,*
3 *eliminates a crime or infraction, or changes the penalty*
4 *for a crime or infraction, within the meaning of Section*
5 *17556 of the Government Code, or changes the definition*
6 *of a crime within the meaning of Section 6 of Article*
7 *XIII B of the California Constitution.*

8 *Notwithstanding Section 17580 of the Government*
9 *Code, unless otherwise specified, the provisions of this act*
10 *shall become operative on the same date that the act*
11 *takes effect pursuant to the California Constitution.*

